

MODULE II GENERAL FACILITY CONDITIONS

II-A DESIGN AND OPERATION OF FACILITY

The Permittee shall design, construct, maintain, and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste and/or hazardous waste constituents to air, soil, or state waters (including surface and groundwater) which could threaten human health or the environment as required by 40 CFR Part 264.31.

II-B GENERAL WASTE ANALYSIS

- B-1 The Permittee shall follow the procedures as required by 40 CFR Part 264.13 and as described in their Waste Analysis plan, Attachment 1.
- B-2 The Permittee, at a minimum, shall verify the analysis of each waste stream as part of its quality assurance program, in accordance with the current EPA approved methods of sampling and analysis as outlined in Test Methods for Evaluating Solid Waste, U.S. EPA Publication SW-846, or equivalent methods approved by the Director, DEP. The Permittee will comply with this section by analyzing randomly selected containers on a semi-annual frequency as described in their Waste Analysis Plan in Attachment 1.
- B-3 The Permittee shall maintain calibrated functional instruments, verify the integrity of sampling and analysis by documentations, and perform correct calculations. Throughout all sampling and analytical activities, the Permittee shall use EPA approved quality assurance/quality control (QA/QC), and chain-of-custody procedures.
- B-4 If the Permittee uses a contractor to perform sampling and analysis, the Permittee shall ensure that:
 - a. The laboratories perform analyses according to the current EPA methods outlined in Test Methods for Evaluating Solid Waste, US EPA Publication SW-846 or equivalent methods approved by the Director, DEP
 - b. The laboratories participate in a quality assurance/quality control (QA/QC) program equivalent to that which is followed by the State or EPA.
- B-5 For purposes of demonstrating compliance with this permit and the Act, the Permittee shall not use laboratory data generated by a laboratory which is not certified under the West Virginia laboratory certification program as required by Chapter 22-1-15 of the W.Va. Code and Title 47, Series 32 Rule promulgated under this statutory provision.

II-C GENERAL INSPECTION REQUIREMENTS

- C-1 The Permittee must inspect the facility for malfunctions and deterioration, operator

errors, and discharges which may be causing or may lead to:

- a. release of hazardous waste constituents to the environment; or;
- b. a threat to human health.

The Permittee must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment (40 CFR Part 264.15(a)).

- C-2 The Permittee must follow a written inspection schedule as outlined in Attachment 2.
- C-3 The Permittee must remedy any deterioration or malfunction of equipment or structures discovered by an inspection as required by 40 CFR Part 264.15(c).

Where a hazard is imminent or has already occurred, the Permittee must take remedial action immediately.

- C-4 The Permittee shall record these inspections and their results in an inspection log (40 CFR Part 264.15(d)), and the facility operating record as required by permit condition I-K-2.e

II-D PERSONNEL TRAINING

The Permittee shall conduct personnel training as required by 40 CFR Part 264.16. This training program shall follow the outline in Attachment 3. The Permittee shall maintain training documents and records as required by 40 CFR Part 264.16.(d) and (e).

II-E PREPAREDNESS AND PREVENTION

E-1 Required Equipment

At a minimum, the Permittee shall equip the facility with the equipment as set forth in the contingency plan, Attachment 4, as required by 40 CFR Part 264.32.

E-2 Testing and Maintenance of Equipment

The Permittee shall test and maintain the equipment specified in the previous Permit Condition and in Attachment 4 as necessary to assure its proper operation in time of emergency as required by 40 CFR Part 264.33. The record of tests and maintenance shall be part of the facility operating record (40 CFR Part 264.73(b)(6)).

E-3 Access to Communications or Alarm System

The Permittee shall maintain access to the communications or alarm system as required by 40 CFR Part 264.32.

E-4 Required Aisle Space

At a minimum, the Permittee shall maintain aisle space as required by 40 CFR Part 264.35 to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation in an emergency.

II-F ARRANGEMENTS WITH LOCAL AUTHORITIES (40 CFR Part 264.37)

- F-1 The Permittee shall comply with the requirements of 40 CFR Part 264.37 by making a diligent effort to:
- a. familiarize emergency response agencies which are likely to respond in an emergency with the location and layout of the facility, chemical and physical properties of hazardous waste managed at the facility and associated hazards, places where facility personnel will normally be working, entrances to and roads inside the facility, and possible evacuation routes as depicted and explained in Attachment 4.
 - b. inform such agencies of safety equipment, supplies, proper emergency safety procedures that are applicable to the facility, and any further requirements related to emergency response imposed by terms and conditions of this permit and Part 264.53)
 - c. familiarize the local ambulance services, fire department, hospitals, and any other local emergency service, with the chemical and physical properties of hazardous waste managed at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.
- F-2 When a State or local agency declines to enter into the arrangements set forth in 40 CFR Part 264.37(b), the Permittee shall document the refusal in the operating record.
- F-3 The Permittee shall, in accordance with 40 CFR Part 264.53(b), submit a copy of the approved contingency plan, including all amendments, revisions, or modifications to all local police departments, fire departments, hospitals, and local emergency response teams that may be called upon to provide emergency services. The Permittee shall notify such agencies and the local authorities, in writing, within ten (10) days of the effective date of any amendments of, revisions to, or modifications to the contingency plan.

II-G CONTINGENCY PLAN

G-1 Implementation of Plan

The Permittee shall immediately carry out the provisions of the approved contingency plan, as set forth in Attachment 4, and follow the emergency procedures described by 40 CFR Part 264.56 whenever there is an imminent or actual emergency situation (which includes release of hazardous waste or constituents, a fire, or explosion), which threatens or could threaten human health or the environment.

G-2 Copies of Plan

The Permittee shall comply with the requirements of 40 CFR Part 264.53 in regards to contingency plan distribution.

G-3 Amendments to Plan

The Permittee shall review and immediately amend, if necessary, the contingency plan, as required by 40 CFR Part 264.54.

G-4 Emergency Coordinator

Emergency Coordinators have been identified. The Permittee shall comply with the requirements set forth in 40 CFR Parts 264.55 and §264.56 regarding the emergency coordinator.

II-H GENERAL CLOSURE REQUIREMENTS

H-1 Performance Standard

The Permittee shall perform partial and final closure as required by 40 CFR Part 264.111 and in accordance with the Closure Plan, Attachment 5.

H-2 Amendment to Closure Plan

The Permittee shall submit for approval any amendments to the Closure Plan in accordance with 40 CFR Part 264.112(c) whenever necessary.

H-3 Notification of Closure

The Permittee shall submit to the Chief a written notification of the partial or final closure in accordance with 40 CFR Part 264.112(d).

H-4 Schedule and Time Allowed For Closure

- a. Pursuant to 40 CFR Part 264.112(b)(6), the Permittee has provided a schedule of closure for each hazardous waste management unit and for final closure of the facility in the approved closure plan, as set forth in Attachment 6.
- b. Pursuant to 40 CFR Part 264.113, the Permittee, after receiving the final volume of hazardous waste at a hazardous waste management unit or facility, shall perform one or more of the following within ninety (90) days or an alternate period approved by the Director pursuant to 40 CFR Part 264.113(a).
 - i. Remove all hazardous waste from the unit or facility.
 - ii. Treat those waste(s) which are permitted in accordance with the permit.

- iii. Dispose of, on-site, those waste(s) which are permitted in accordance with the permit.
- c. The Permittee shall complete partial and final closure activities in accordance with the approved closure plan and within one hundred-eighty (180) days after receiving the final volume of hazardous wastes at the hazardous waste management unit, or an alternate period contingent on the Director's approval of the demonstration made pursuant to 40 CFR Part 264.113(b).

H-5 Disposal or Decontamination of Equipment

- a. During partial and final closure, the Permittee must decontaminate and/or dispose of all contaminated equipment, structures, and soils, as required by 40 CFR Part 264.114 and the approved Closure Plan, as set forth in Attachment 5.
- b. The Permittee shall provide the DWWM the opportunity to split samples by giving an advance notice of one week to the assigned DWWM inspector, of any sampling which is to be done under the closure plan.

H-6 Certification of Closure

Within sixty (60) days of completion of closure, the Permittee must submit to the Director, certification both by the Permittee and by an independent registered professional engineer, that the partial or final closure has been performed in accordance with the specifications in the approved Closure Plan and the terms and conditions of this permit as required by 40 CFR Part 264.115.

II-I **COST ESTIMATE FOR FACILITY CLOSURE**

I-1 Cost Estimates

- a. The Permittee must have a detailed written estimate in current dollars of the cost of closing the facility in accordance with the requirements of 40 CFR Part 264.142 and 40 CFR Part 264.144 (if applicable).
- b. The estimate must equal the cost of final closure at the point in the facility's life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.
- c. The closure cost must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator.
- d. The closure cost estimate may not incorporate any salvage value that may be realized with the sale of the hazardous wastes, facility structures or equipment, and/or other assets associated with the facility at the time of partial or final closure.

- e. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years post closure-care is required.

I-2 Annual Adjustment (264.142(b))

During the active life of the facility, the Permittee must adjust the closure cost estimate for inflation within sixty (60) days prior to the anniversary date of the establishment of the financial instrument used to comply with the requirements of 40 CFR Part 264.143. If using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty (30) days after the close of the firm's fiscal year and before submission of updated information to DEP.

I-3 Adjustment for Changed Conditions

The Permittee must revise the cost estimate whenever there is a change in the facility's closure plan as required by 40 CFR Part 264.142(c) and/or post-closure plan as required by 264.144(c).

I-4 Availability

The Permittee must keep at the facility the latest cost estimate as required by 40 CFR Parts 264.142(d) and 264.144(d).

II-J INCAPACITY OF OWNER/OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS

The Permittee must notify the Secretary, Department of Environmental Protection, by certified mail, of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the Permittee as debtor, within ten (10) days after commencement of the proceeding, as required by 40 CFR Part 264.148.

II-K GENERAL REQUIREMENTS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTES

The Permittee shall comply with the requirements of 40 CFR Part 264.17. Permittee shall follow the procedures for handling ignitable, reactive, and incompatible waste(s) set forth in Attachment 1.

II-L FINANCIAL ASSURANCE REQUIREMENTS

The Permittee shall maintain compliance with 40 CFR Part 264, Subpart H by providing financial assurance, as required by 40 CFR Part 264, Subpart H, in at least the amount of the cost estimates required by Permit Condition II-I.

II-M LIABILITY REQUIREMENTS

The Permittee shall comply with the requirements of 40 CFR Part 264.147 and the documentation requirements of 40 CFR Part 264.147, including the requirements to have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million dollars per occurrence with an annual aggregate of at least \$2 million, and maintain liability coverage for non-sudden accidental occurrences in the amount of at least \$3 million per occurrence with an annual aggregate of at least \$6 million, exclusive

of legal defense costs.

II-N SECURITY

The Permittee shall comply with the security provisions of 40 CFR Part 264.14.

II-O REQUIRED NOTICES

The Permittee shall comply with the requirements of 40 CFR Part 264.12.

II-P MANIFEST SYSTEM

The Permittee shall comply with the manifest requirements of 40 CFR Parts 264.71, 264.72, and 264.76.

II-Q CONSIDERATIONS UNDER STATE LAW

Q-1 Groundwater Protection Act

The Secretary, Department of Environmental Protection, under the provisions of the Groundwater Protection Act (Article 12, Chapter 22 of the West Virginia Code), has certified the groundwater regulatory program of the Division of Water and Waste Management (DWWM), Hazardous Waste Management, and thereby authorized DWWM to be a groundwater regulatory agency for the purposes of Article 12.

a. Annual Fee

The Permittee shall pay the annual groundwater protection fund fee in accordance with the regulations codified as Title 47, Series 55, that were promulgated under the Groundwater Protection Act. Pursuant to Section 9(a) of this Act, failure to remit groundwater protection fund fees may result in withdrawal or withholding of groundwater certification and, subject the Permittee to the penalties outlined in West Virginia Code §22-12-10.

b. Groundwater Protection Plan

The regulations, Title 47, Series 58, promulgated under the Groundwater Protection Act, establish a series of practices which must be followed by persons subject to regulation under the Groundwater Protection Act. Pursuant to Section 4.12.c of 47 CSR 58, the Groundwater Protection Plan (GPP) must be available on site at all times.

II-R AIR EMISSION STANDARDS FOR PROCESS VENTS (40 CFR Part 264.1030(c))

The Permittee is subject to the requirements of 40 CFR Part 264, Subpart AA. The Permittee shall comply with Parts 264.1032 through 264.1036 and the emission standards approved and enforced by the Department of Environmental Protection, Division of Air Quality (OAQ).

II-S AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS (40 CFR Part 264.1050(c))

The Permittee is subject to the requirements of 40 CFR Part 264, Subpart BB. The Permittee shall comply with 40 CFR Parts 264.1052 through 264.1065 and the emission standards approved and enforced by the Department of Environmental Protection, Division of Air Quality (OAQ).

II-T SUBPART CC AIR EMISSION STANDARD FOR TANK, SURFACE IMPOUNDMENTS, AND CONTAINERS

The Permittee is subject to the requirements of 40 CFR Part 264, Subpart CC. The Permittee shall comply with 40 CFR Part 264.1080 and the emission standards approved and enforced by the Department of Environmental Protection, Division of Air Quality (OAQ).